

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAKE CHARLES DIVISION**

**ELLEN BURR BAPTIST CHURCH INC : DOCKET NO. 2:22-cv-06251**

**VERSUS : JUDGE JAMES D. CAIN, JR.**

**CHURCH MUTUAL INSURANCE CO S I : MAGISTRATE JUDGE LEBLANC**

**MEMORANDUM ORDER**

Before the court is a Motion to Compel Discovery [doc. 19] filed by defendant Church Mutual Insurance Company, S.I. The time for response has passed with none being filed, making this motion unopposed and ripe for resolution. For reasons set forth below, the court finds the motion should be **GRANTED**.

**I.  
BACKGROUND**

Plaintiff filed suit against defendant Church Mutual Insurance Company, S.I., in the 30th Judicial District court, Vernon Parish, Louisiana. Doc. 1, att. 1. Defendant removed the matter to this court on the basis of diversity jurisdiction. Doc. 1.

Defendant served its first set of discovery upon plaintiff on March 6, 2024. Doc. 19, att. 4. Defendant granted plaintiff a fourteen-day extension of time to respond to the discovery requests. Doc. 19, att. 1, p. 3. Plaintiff has provided no responses. *Id.*

Defendant now seeks an order from this court compelling plaintiff to respond to defendant's discovery requests. Doc. 19. Defendant also asks the court to award it reasonable expenses incurred in filing the motion to compel. *Id.* The time for response has passed, and no opposition was filed. The court will therefore treat the motion as unopposed.

## II. LAW AND ANALYSIS

Pursuant to Federal Rule of Civil Procedure 26(b)(1), “[p]arties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense.” Federal Rule of Civil Procedure 37(a)(1) permits a party to “move for an order compelling disclosure or discovery.” Additionally, a party may move for an order specifically compelling disclosure of any materials requested if another party fails to answer an interrogatory submitted under Rule 33 or to produce documents as requested under Rule 34. Fed. R. Civ. P. 37(a)(3)(B). An evasive or incomplete answer or response must be treated as a failure to answer or respond. Fed. R. Civ. P. 37(a)(4). The party resisting discovery has the burden of proving the discovery is irrelevant, overly broad, or unduly burdensome, and thus should not be permitted. *Samsung Electronics America Inc. v. Yang Kun “Michael” Chung*, 325 F.R.D. 578, 590 (N.D. Tex. 2017) (citing *McLeod, Alexander, Powel & Apffel, P.C. v. Quarles*, 894 F.2d 1482, 1485 (5th Cir. 1990)).

If a court grants a Rule 37 motion to compel, “the court must, after giving an opportunity to be heard, require the party or deponent whose conduct necessitated the motion, the party or attorney advising that conduct, or both to pay the movant’s reasonable expenses incurred in making the motion, including attorney’s fees.” Fed. R. Civ. P. 37(a)(5)(A). But the court must not order the payment of expenses if: “(i) the movant filed the motion before attempting in good faith to obtain the disclosure or discovery without court action; (ii) the opposing party's nondisclosure, response, or objection was substantially justified; or (iii) other circumstances make an award of expenses unjust.” *Id.*

Plaintiff failed to file an opposition to the instant motion within the time period allowed under the Court’s Notice of Motion Setting [doc. 20]. Accordingly, plaintiff has not met its burden to show how the discovery sought is irrelevant or otherwise objectionable. *See Clark v.*

*Schlumberger Tech. Corp.*, No. 18-CV-93, 2019 WL 13253890, at \*2 (W.D. Tex. Oct. 30, 2019) (citing *Quarles*, 894 F.2d at 1485)). Accordingly, the court grants the motion on the merits. The court does not see any reason not to award defendant attorney's fees and costs.

**III.  
CONCLUSION**

For the foregoing reasons,


**IT IS HEREBY ORDERED** that defendant's Motion to Compel Discovery [doc. 19] is **GRANTED**.

**IT IS FURTHER ORDERED** that plaintiff Ellen Burr Baptist Church, Inc. shall respond fully to defendant's first set of discovery requests [doc. 19, att. 4]. These responses are due within 10 days of the signing of this order.

**IT IS FURTHER ORDERED** that an award of reasonable expenses, including attorney's fees, is awarded against plaintiff Ellen Burr Baptist Church, Inc. pursuant to Federal Rule of Civil Procedure 37(a)(5)(A).

**IT IS FURTHER ORDERED** that, within 10 days of the signing of this order, defendant shall file into the record a statement of fees and costs incurred in filing this motion, which shall be supported by an affidavit setting forth the hours expended for the activities described in the statement, who performed the services, and the hourly rate applied to those hours. Plaintiff may submit a response to these documents within 7 days after they are filed into the record.

THUS DONE AND SIGNED in Chambers this 21st day of August, 2024.

  
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THOMAS P. LEBLANC  
UNITED STATES MAGISTRATE JUDGE